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REMARKS

Claims 1-39 are pending in the application. No claims are amended.

The Primary Examiner has indicated that Fig. 1, Fig. 2, and Fig. 3 represent different species. The Examiner asserts that claims 1-3, 5-8, 11-24, and 27-39 are generic, and therefore attempts to assert that claims 4, 9-10, 25-26 represent unrelated inventions. The Examiner asserts that each independent claim is generic but fails to provide any additional substantive discussion supporting the merit of the present restriction requirement as required (MPEP §808). Regulation paragraphs are employed without discussing the invention itself.

The restriction is respectfully traversed for the substantive and procedural reasons noted below, and withdrawal is requested.

It appears that a brief review of the invention is required for clarity. A review of the written description should be recalled, specifically pages 15-16, where Figs 1-3 are described in direct interrelation to each other as describing a single invention with assembly steps. Attention is also drawn to the six independent claims (claims 1, 22, 36, 37, 38, and 39) each broadly readable upon the same invention, with the same minimal elements.

The present invention provides, in every independent claim, both some type of supporting frame and one or more outer layers. As a consequence, Fig. 1 (directed obviously to a frame for explanatory purposes not claiming purposes) cannot be an inventive species. The same frame 1 is shown in Fig. 2 (see display unit "1" description) enclosed by flexible covering member 12. This same frame is employed with a different flexible outer layer as display unit "1" in Fig. 3). Thus the claims of the application define the same essential elements of a single disclosed embodiment of an invention.

The claims are searched not the Figures, and are but different

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definitions of the same disclosed subject matter, varying by breadth and scope thereby avoiding the requirements of a restriction. Each embodiment may be examined together. This is the essence of Applicants assertion that a review of the invention itself would be helpful. An understanding of Figs. 1, 2, and 3 as assembly steps would avoid confusion (first the frame (Fig. 1), then the outer covering (Fig. 2), then addition of any optional advertisement, lighting, etc.(Fig. 3)). At best Fig. 3 includes the disclosure of Fig. 2 and adds additional elements, thus also avoiding species definition.

Additionally, it is admitted in the paper (page 2) that independent claims are generic to the same invention by their grouping and language. Thus, by default analysis there are no claims directed solely to Fig. 1 excluding it from Species analysis. The present claims are directed to related but non-distinct inventions rendering restriction improper. As a consequence, the present restriction should be withdrawn (MPEP §806(c)).

Procedurally, Applicants respectfully note that MPEP §808 requires that every restriction requirement have two written aspects “(a) the reasons – distinguished from mere statements of conclusion as to why the invention as claimed are independent or distinct, and (b) the reasons for insisting upon restriction.” As a consequence, the present response fails to substantively address the analysis employed to assert that multiple inventions (not different drawings) are claimed as independent or distinct species linked to separate figures.

For such a restriction to be successfully argued by the office, differing inventions would require direction to the specific Figures, but this is not the case. No invention is directed to Fig. 1, and only dependent claims are directed to the variations shown between Fig. 2 and Fig. 3. For the restriction analysis to be successful, selection of Fig. 1 as a species would allow analysis of at least one independent claim, and this is also not the case.

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As a consequence, Applicants traverse the present restriction requirement, assert that they have successfully shown that the claims are directed to a single inventive aspect allowing easy searching, request reconsideration and withdrawal of the restriction, and provisionally elect Fig. 2.

Should the Examiner maintain an assertion that the present restriction is proper, or make such a restriction Final, Applicants respectfully request a written reason why any invention as claimed are independent or distinct in relation to Figs. 1, 2, and 3, and particularly how Fig 1 (lacking a flexible covering) is read-upon by any independent claim (as required by §806 so that an adequate record may be made for appeal). The elements common to each independent claim are easily illustrated and do not need reiteration here.


In sum, reconsideration and withdrawal of the restriction is respectfully requested. In view of the foregoing, the application is now believed to be in proper form for searching and examination.

The Commissioner is hereby authorized to charge payment of any additional fees or credit any overpayment, to Deposit Account No. 10-0100.

If the Examiner believes that a conference to clarify or to focus the examination would be helpful, he is respectfully requested to call the undersigned counsel for prompt response.

Early and favorable action is respectfully solicited.

Respectfully Submitted,


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